

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

EARNEST S. HARRIS,

Petitioner,

v.

R. BARNES, Warden,

Respondent.

No. C 15-1260 WHA (PR)

**ORDER OF DISMISSAL;
GRANTING LEAVE TO PROCEED
IN FORMA PAUPERIS**


(Dkt. 2)

Petitioner, a state prisoner currently incarcerated at State Prison, has filed a second or successive petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He challenges a conviction and sentence from Alameda County Superior Court in 1993. He challenged the same criminal judgment in a prior petition. *See Harris v. Warden*, No. C. 05-0865 MJJ (PR). A second or successive petition may not be filed in this court unless petitioner first obtains from the United States Court of Appeals for the Ninth Circuit an order authorizing this court to consider the petition. See 28 U.S.C. § 2244(b)(3)(A). Petitioner has not sought or obtained such an order from the Ninth Circuit. The petition is accordingly **DISMISSED** without prejudice to refiling if petitioner obtains the necessary order. Petitioner is **GRANTED** leave to proceed in forma pauperis (dkt. 2).

No certificate of appealability is warranted in this case because a reasonable jurist would not find the dismissal of this petition debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). The clerk shall enter judgment and close the file.

IT IS SO ORDERED.

Dated: March 31, 2015.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE